

ASSEMBLY BILL

No. 2152

Introduced by Assembly Member Chan

February 21, 2006

An act to amend Sections 4935 and 4947 of the Business and Professions, relating to acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

AB 2152, as introduced, Chan. Acupuncture: practice by health care professionals.

Existing law, the Acupuncture Licensing Act, regulates the practice and licensure of acupuncture and establishes the Acupuncture Board to enforce and administer these provisions. Existing law requires an applicant for an acupuncture license to meet specified requirements, including certain educational and examination requirements. Existing law provides that the act does not prevent the practice of acupuncture by a person licensed as a dentist or podiatrist within the scope of his or her license if the licensee has received a course of instruction in acupuncture, as specified. Existing law provides that any person who practices acupuncture without a license is guilty of a misdemeanor, with the exception of physician and surgeons, dentists, and podiatrists.

This bill would delete the authorization for a dentist or a podiatrist to practice acupuncture within the scope of his or her license if the licensee has received a course of instruction in acupuncture. The bill would instead only permit a physician and surgeon, a dentist, or a podiatrist to practice acupuncture within the scope of his or her license if the licensee meets the educational and examination requirements for licensure as an acupuncturist. The bill would also subject physician and surgeons, dentists, and podiatrists to the misdemeanor provisions with regard to a person who practices without an acupuncturist

license. Because it would create a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4935 of the Business and Professions
2 Code is amended to read:

3 4935. (a) (1) It is a misdemeanor, punishable by a fine of not
4 less than one hundred dollars (\$100) and not more than two
5 thousand five hundred dollars (\$2,500), or by imprisonment in a
6 county jail not exceeding one year, or by both that fine and
7 imprisonment, for any person who does not hold a current and
8 valid license to practice acupuncture under this chapter or to hold
9 himself or herself out as practicing or engaging in the practice of
10 acupuncture.

11 (2) It is a misdemeanor, punishable by a fine of not less than
12 one hundred dollars (\$100) and not more than two thousand five
13 hundred dollars (\$2,500), or by imprisonment in a county jail not
14 exceeding one year, or by both that fine and imprisonment, for
15 any person to fraudulently buy, sell, or obtain a license to
16 practice acupuncture, or to violate the provisions of this chapter.

17 (b) ~~Notwithstanding any other provision of law, any~~ Any
18 ~~person, other than a physician and surgeon, a dentist, or a~~
19 ~~podiatrist,~~ who is not licensed under this article ~~but is licensed~~
20 ~~under Division 2 (commencing with Section 500),~~ who practices
21 acupuncture involving the application of a needle to the human
22 body, performs any acupuncture technique or method involving
23 the application of a needle to the human body, or directs,
24 manages, or supervises another person in performing
25 acupuncture involving the application of a needle to the human
26 body is guilty of a misdemeanor.

(c) A person holds himself or herself out as engaging in the practice of acupuncture by the use of any title or description of services incorporating the words “acupuncture,” “acupuncturist,” “certified acupuncturist,” “licensed acupuncturist,” “Asian medicine,” “oriental medicine,” or any combination of those words, phrases, or abbreviations of those words or phrases, or by representing that he or she is trained, experienced, or an expert in the field of acupuncture, Asian medicine, or Chinese medicine.

(d) Subdivision (a) shall not prohibit a person from administering acupuncture treatment as part of his or her educational training if he or she:

(1) Is engaged in a course or tutorial program in acupuncture, as provided in this chapter; or

(2) Is a graduate of a school of acupuncture approved by the board and participating in a postgraduate review course that does not exceed one year in duration at a school approved by the board.

SEC. 2. Section 4947 of the Business and Professions Code is amended to read:

4947. ~~(a) Nothing in this chapter shall be construed to prevent the practice of acupuncture by a person licensed as a physician and surgeon, a dentist, or a podiatrist, within the scope of their respective licenses, if the licensee has received a course of instruction in acupuncture. This course material shall be approved by the licensing board having jurisdiction over the licensee. The board shall assist the licensing boards in providing information as requested by the individual licensing boards~~ *meets the educational and examination requirements in Section 4938.*

~~(b) The course requirement set forth in subdivision (a) shall not apply to a podiatrist or dentist who has completed a course in acupuncture, including a continuing education course, and has utilized acupuncture prior to July 1, 1982.~~

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a

- 1 crime within the meaning of Section 6 of Article XIII B of the
- 2 California Constitution.

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